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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

PAUL MONTWILLO, an individual	)	CASE NO. C 07 3947 SI
	)	
Plaintiff,	)	EX PARTE APPLICATION FOR
	)	ORDER SHORTENING TIME RE:
vs.	)	DEFENDANTS' MOTION TO CONTINUE PRE-
	)	TRIAL CONFERENCE AND TRIAL DATES
WILLIAM TULL; DANIEL GIBBY;	)	PURSUANT TO LOCAL RULE 6-3;
GIBBY NOVELTIES, LLC dba ARSENIC	)	DECLARATION OF DAVID Y. WONG AND
& APPLE PIE, a California Limited	)	EXHIBITS IN SUPPORT OF MOTION; AND
Liability Corporation and DOES 1 through	)	PROPOSED ORDER
20, inclusive,	)	
	)	Complaint filed: August 1, 2007
Defendants.	)	Trial date: June 30, 2008

DEFENDANTS WILLIAM TULL, DANIEL GIBBY AND GIBBY NOVELTIES, LLC, a  
California Limited Liability Company, will and do present this Ex Parte Application to the Court  
for an Order Shortening Time regarding their Motion Continue the Pre-trial Conference and Trial  
Dates pursuant to Local Rule 6-3 in the above matter.

Defendants' ex parte application is brought after opposing counsel refused to stipulate to  
a joint request to continue the dates of the Pre-trial Conference and Trial for multiple reasons,

MONTWILLO V. TULL, ET AL. USDC Action No. C 07 3947 SI

EX PARTE APPLICATION OF DEFENDANTS WILLIAM TULL, DANIEL GIBBY AND GIBBY NOVELTIES, LLC  
FOR ORDER SHORTENING TIME AND TO CONTINUE PRE-TRIAL CONFERENCE AND TRIAL DATES  
PURSUANT TO LOCAL RULE 6-3

1 namely that the Court's recent issuance of its ruling on the cross Motions for Summary  
2 Judgment, and the pending Motion of Defendants to compel the production of an expert witness  
3 report, or to strike Plaintiff's Expert Witness Disclosure have made it extremely difficult, if not  
4 impossible for Defendants to adequately prepare for the Pretrial Conference and Trial of this  
5 matter. The circumstances surrounding these two events have and will, if not cured, hamper  
6 and severely prejudice Defendants' ability to prepare for trial

7 This Ex Parte Application for Order Shortening Time will be based on this Application,  
8 the Supporting Declaration of David Y. Wong and the attached proposed Motion to Continue,  
9 the pleadings on file in this case, and such other evidence as may be presented at the hearing  
10 on this motion.

#### 11 12 13 **APPLICATION FOR ORDER SHORTENING TIME** 14

15 Defendants respectfully request that the Court accept and permit the instant Motion to  
16 Extend the Pre-trial and Trial Dates in this matter on shortened notice. Defendants' Motion is  
17 brought within days of the issuance of the Court's Ruling on the cross motions for summary  
18 judgment in this case, argued on April 25, 2008, and seeks an order of postponement that  
19 would allow the parties to properly prepare and submit papers in compliance with the Court's  
20 local rules for trial. It is also brought for the purpose of encouraging the possible settlement of  
21 this matter under the supervision of the Court.

22 As set forth in the attached Declaration of David Y. Wong, good cause does exist for an  
23 order shortening time. A stipulation was unreasonably refused by opposing counsel, and the  
24 resulting prejudice if the motion is not heard will cause substantial prejudice to Defendants,  
25 particularly as it relates to Defendants' objections to Plaintiff's defective Expert Witness  
26 Disclosure. Despite Defendants' good faith efforts to meet and confer, Plaintiff and his Counsel  
27 have failed and refused to make any effort to comply with the disclosure requirements, thus


28 MONTWILLO V. TULL, ET AL. USDC Action No. C 07 3947 SI

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PURSUANT TO LOCAL RULE 6-3

1 forcing Defendants to present a Motion to compel which has been previously submitted to the  
2 Court without argument.

3 There have been no previous modifications of the Court's trial schedule in this matter  
4 and the enlargement of time sought by Defendants will not significantly impact the Court's  
5 calendar.

6  
7 DATED: June 4, 2008



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8 David Y. Wong, Attorney at Law  
9 Marc H. Greenberg, Attorney at Law;  
10 Attorneys for Defendants William Tull, Daniel  
11 Gibby and Gibby Novelties, LLC  
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MONTWILLO V. TULL, ET AL. USDC Action No. C 07 3947 SI

EX PARTE APPLICATION OF DEFENDANTS WILLIAM TULL, DANIEL GIBBY AND GIBBY NOVELTIES, LLC  
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PURSUANT TO LOCAL RULE 6-3

**ORDER OF COURT REGARDING DEFENDANTS' EX PARTE APPLICATION FOR ORDER  
SHORTENING TIME RE: MOTION TO CONTINUE PRE-TRIAL CONFERENCE AND TRIAL  
DATES PURSUANT TO LOCAL RULE 6-3**

The Application of Defendants WILLIAM TULL, DANIEL GIBBY and GIBBY  
NOVELTIES, LLC, (hereinafter cumulatively referred to as "Defendants") for an Order  
Shortening Time Regarding Motion to Continue the Pre-Trial Conference and Trial dates in this  
matter came on for hearing on June 6, 2008. The Court, having considered the Application, the  
supporting Declaration of Counsel, and the oral arguments of all parties present, and GOOD  
CAUSE APPEARING THEREFOR, HEREBY ORDERS AS FOLLOWS:

Defendants' Application for Order Shortening Time is hereby granted. Defendants'  
Motion to Continue the Pre-trial Conference and Trial dates will be set for hearing on  
, 2008. Opposition to Defendants' Motion must be filed by  
, 2008 and any Reply by , 2008.

Defendants' Application is denied.

Dated: United States District Court for the Northern District

Honorable Susan Illston

MONTWILLO V. TULL, ET AL. USDC Action No. C 07 3947 SI

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